IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

Crl.Rev.Pet.No. 2981 of 2007()

CRA.708/2006 of SESSIONS COURT, KOZHIKOE
CC.528/2002 of JUDL.MAGISTRATE OF FIRST CLASS-II, THAMARASSERY
(MC 58/2005)

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REVN. PETITIONER: APPELLANT/RESPONDENT

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1. ANTONY, AGED 55 YEARS, S/O.THOMAS, KOCHUMURI, KAITHAKKATTE, EZHUVANNA AMSOM DESOM, CHERTHALA TALUK.

2. JOY, S/O.JOHN, AGED 48 YEARS, KOTHENGALATH, EZHUVANNA AMSOM DESOM, CHERTHALA TALUK.

BY ADV. SRI.ALEXANDER GEORGE

RESPONDENTS: RESPONDENT/PETITIONER

STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 10/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Cr.R.P. NO. 2981 of 2007

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Dated, this the 10th day of August 2007

ORDER

Revision petitioners were the sureties to one Biju who was the accused in C.C. 528 of 2002 on the file of the Judl.First Class Magistrate-II, Thamarassery for offences punishable under Section 138 of the N.I. Act and under Sec. 420 of I.P.C. The said Biju was convicted in C.C. 528 of 2002. Against the conviction he preferred an appeal before the Sessions Court, Kozhikode which was pleased to suspend the sentence on the accused executing a bond for Rs. **25,000/- (Rupees twenty five thousand only)** with two solvent sureties each for the like amount. It was at that stage that the revision petitioner stood as surety for the said Biju. The Sessions Court disposed of the appeal confirming the conviction and modifying the sentence by reducing the simple imprisonment to two months with a direction to the accused to appear before the trial court on 25-6-2005 after receiving the sentence. But the accused /convictee failed to appear before the trial court whereupon M.C. was registered against the sureties and the accused. Eventhough the revision petitioners entered appearance for receiving notice and took time to produce the accused they did not produce the accused even on two of the subsequent postings. Thereupon the Magistrate imposed imposed

the bond amount as penalty. On appeal preferred by the revision petitioners/sureties as Crl.A. 708 of 2006 the lower appellate court was inclined to allow the appeal in part reducing the penalty to Rs. 15,000/-. The learned counsel for the revision petitioners submitted that Biju the accused in the main case had been to Mumbai and does not heard of by his relatives after the bomb blast during the year 2005 and since he was still at large it was impossible for the revision petitioners to produce the accused. Even if the said explanation is true, that cannot furnish proper justification for not paying the penalty. However, having regard to the fact that the accused in C.C. 528 of 2002 is still absconding leave no clue about his whereabouts and having regard to the predicament in which the revision petitioners are placed, I am of the view that a penalty of Rs. 7,500/- will be sufficient to meet the ends of justice. Accordingly, this revision is allowed in part imposing a penalty of Rs. 7,500/- on each of the revision petitioners remitting the balance amount. The said penalty shall be paid within one month from today, failing which the revision petitioner shall be detained in civil prison for one month, in case, recovery of the penalty becomes impracticable.

V. RAMKUMAR,
(JUDGE)

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